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ABSTRACT

In response to the movement to declare English the official language of the United States (by state legislation/ballot initiative or federal constitutional amendment), this pamphlet addresses commonly raised issues in the debate over language legislation in the United States. The paper urges the reader to reject the Official English/English Only movement and to support English Plus (a program to expand opportunities for limited English proficient individuals to learn English). The pamphlet's sections are as follows: (1) Foreword; (2) Questions and Answers; (3) A Historical Perspective on Language Restrictionism; (4) The English Language Amendment: Its Provisions and Their Meaning; (5) Say No to Official English/English Only; (6) Resources; and (7) Bibliography. (SR)

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April 1988

Official English / English Only

More Than Meets the Eye

National Education Association

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Foreword

In the fall of 1986, the voters of California passed Proposition 63 to amend the state constitution to make English the official language of the state.

Since that time, efforts to amend state constitutions to establish English as the official language have appeared in other states. In 1987, 37 state legislatures debated the issue. This year, at least 30 state legislatures will debate official English bills. And we know, as we go to press, that official English measures will appear on the November election ballots in at least two states—Colorado and Florida.

However, the movement to declare English the official language of the United States—by state legislation/ballot initiative or federal constitutional amendment—is not simply about legislating the official status of English. That movement is also about restricting languages other than English and terminating needed bilingual services for limited English proficient communities. A close analysis reveals this movement to be little more than the revival of the racial and ethnic intolerance of the last century.

I believe that the American people must reject the Official English/English Only movement now and in the future, as we have rejected other attempts to disenfranchise minority citizens. I also believe, in contrast to those who support the Official English/English Only movement, that positive initiatives, such as the English Proficiency Act, should be supported. This federal legislation would provide increased resources for English language acquisition.

1987 was the year of the bicentennial of the American Constitution. As we reflect on that celebration and prepare for the years ahead, we should recommit ourselves to

protecting the rights of all Americans and to assuring their education. We should also dissociate ourselves from the divisiveness that pervades the Official English/English Only movement. *Instead, we should support English Plus—expanded opportunities for limited English proficient individuals to learn English and for native English speakers to master second or multiple languages.*

NEA invited the Mexican American Legal Defense and Education Fund (MALDEF) to prepare this brochure as part of NEA's commitment to inform its membership and educate the general public. The brochure addresses commonly raised issues in the debate over language legislation in the United States and calls upon you to take action to **say no to Official English/English Only and yes to English Plus.**

Mary Hatwood Futrell
President
National Education Association

Questions and Answers

1. ***Isn't English already the official language of the United States?***

   Yes. English is the language of political, social, and economic discourse in the United States. English achieved this status through custom, tradition, and practice.

   Among non-English speakers, the commitment to learn English is clear. In 1986, almost 40,000 Hispanics and Asians in Los Angeles were placed on waiting lists for or were turned away from already packed adult English classes. In New York City, the figure was 26,000. In addition, 98 percent of Hispanics surveyed in 1985 said that it was essential that their children read and write English perfectly.

   These individuals do not need a constitutional amendment to know that English proficiency is important in their daily lives.

2. ***If the nation's language is already English, why is the issue so controversial?***

   The issue is controversial because official language laws purport to protect English but actually threaten the ability of governments, including schools, to reach and serve all residents.

   Official language laws, for example, threaten to prohibit the testimony of non-English-speaking crime victims

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and witnesses in court. Since the bills in Congress do not contain exemptions for health and safety, public hospital personnel and police officers could be left without interpreters to help them communicate with the public. The laws also deprive governmental agencies of their full capabilities to publicize important information and to educate the people.

3. ***What is the English Language Amendment?***

At the federal level, the English Language Amendment would amend the U.S. Constitution to establish English as the official language of the United States. First introduced in Congress in 1981, the English Language Amendment has been reintroduced as a joint resolution in each succeeding Congress, but it has never been voted upon. Constitutional amendments must be approved by a two-thirds majority in both houses of Congress and be ratified by three-fourths of the states.

4. ***Why not support the English Language Amendment? Isn't it merely symbolic?***

No, we should not support the English Language Amendment; and no, it is not symbolic. As the basic legal document of the United States, the Constitution governs the interpretation of all other laws. Since an amendment to the Constitution supersedes all other laws and court decisions, an English Language Amendment could nullify bilingual education and voting requirements and fair and equal access to the courts for those not yet proficient in English.

Even if the English Language Amendment were merely symbolic, America's language needs require more than symbolism. They require the real resources that the English Proficiency Act can provide, such as $25

million for fiscal year 1988 for adult English literacy classes.

5. ***How will the English Language Amendment affect education?***

   While we do not know how the English Language Amendment will affect education, we do know that the amendment will make teaching and learning more difficult.

   It will not provide for one more textbook, one more teacher, one more aide, or one more classroom to teach English. It will not reduce the long waiting lists for adult English language programs, and it will not improve school-community relations. In fact, the amendment may limit the ability of teachers and principals to communicate to limited-English-proficient parents by preventing the schools from using parental notification forms in languages other than English and by making it harder for schools to hire bilingual education teachers and support personnel.

6. ***Will the English Language Amendment keep school districts from requiring teachers to learn languages other than English? Will it help their students?***

   The English Language Amendment does not involve itself in that debate. However, since using the student's native language in instruction has demonstrated effective results, teachers in some states that use such programs have been asked to learn the language which their students speak or to have a classroom assistant who is bilingual. By threatening the continuation of bilingual education programs, the English Language Amendment might bar the use of languages other than English in the classroom, might prevent teachers from

communicating with students in the students' native languages other than English.

7. ***What do state Official English/English Only laws say?***

The content of Official English/English Only laws in the states varies. Some bar state and local governments from providing bilingual services to residents not yet proficient in English. Others prohibit state legislatures from passing laws which "ignore the role of English" and authorize residents and businesses to sue to enforce the Official English/English Only provisions of the law. Still others simply state that English is the official language. Campaigns for Official English/English Only language laws have been used to try to eliminate governmental and business activity in other areas.

8. ***What does California's Official English/English Only law say? What is the impact of this law?***

The California law, passed by over 70 percent of California's voters in November 1986, made English the official language of the state. The law forbids the legislature from passing any new law which "diminishes or ignores the role of English as the common language of the State of California."

The impact of the law is not yet known. Over a dozen bills to implement it were introduced in the state legislature in 1987, and litigation to enforce the law has been threatened by its proponents.

9. Who is behind the Official English/English Only movement?

Two organizations are behind Official English/English Only—English First and U.S. English.

English First, headquartered in Springfield, Virginia, is a project of the Committee to Preserve the Family. It has established U.S. Border Control, a parallel organization having the same advisory board, key officials, and offices as English First. Larry Pratt, president of English First, is executive director of Gun Owners of America and secretary of the Council on Inter-American Security. In 1985, the Council on Inter-American Security issued a report, "On Creating a Hispanic America: A Nation Within a Nation," which implied that Hispanics are a national security threat and that bilingual education promotes cultural apartheid.

U.S. English, headquartered in Washington, D.C., is the sister organization of the Federation for American Immigration Reform (FAIR), which lobbies for restrictive immigration legislation. Each organization has formed a political action committee to raise and donate campaign funds.

Last year, U.S. English named as its president, Linda Chavez, former staff director of the U.S. Commission on Civil Rights and Reagan White House official.

10. Who else supports the English Language Amendment? Who opposes it?

The organizations that endorse the English Language Amendment include the National Grange, the American Legion, the National Confederation of American

Ethnic Groups, the Polish American Congress, the German American National Congress, and the state Republican parties of California and Texas.

In 1986, opposition to California's Proposition 63 included the Democratic and Republican candidates for governor, lieutenant governor, and attorney general; the California Teachers Association; the League of Women Voters; the state board of education; and every major state newspaper.

Other major groups which oppose the English Language Amendment include the National Council of Teachers of English, the Linguistic Society of America, the Modern Language Association, the American Jewish Committee, the Mexican American Legal Defense and Education Fund, the American Civil Liberties Union, the Japanese American Citizens League, the Organization of Chinese Americans, the Democratic National Committee, Teachers of English to Speakers of Other Languages (TESOL), the Joint National Committee for Languages, and the AFL-CIO.

11. Is the Official English/English Only issue advancing in other states? In Congress?

It is advancing on the state level but not in Congress. Six states enacted English language laws prior to 1983, and seven enacted them since 1983. Some states have had them on the books for over 60 years. At least 30 states are expected to debate the Official English/English Only issue in 1988.

On the national level, the situation is different. While the English Language Amendment has been introduced as a joint resolution in each Congress since 1981, it has yet to come up for a vote. Sponsors of this legislation in the Senate have included Senators Helms (NC), Thurmond (SC), Symms (ID), Cochran (MS), and Garn (UT).

A *Historical Perspective on Language Restrictionism*

Concern about language appeared early in our history. The Continental Congress, for example, printed a number of documents, including the Articles of Confederation, in German and English. An 1837 Pennsylvania law required that school instruction be given on an equal basis in German and English. And California, which was officially bilingual for 30 years, printed its first state constitutional proceedings in Spanish and English.

Such linguistic coexistence was short lived, however. Language legislation in its exclusionary form began to appear in the 1870s, during the Centennial Era. It affected both native-born, English-speaking Black Americans and non-English-speaking immigrants. After the 1876 election and the demise of Reconstruction, Black Americans fell victim to the Jim Crow laws passed by Southern states, such as newly imposed literacy requirements for voting. On the West Coast, the Anti-Chinese Workingman's Party led California's second constitutional convention to ratify the state's first English Only provisions. The California Supreme Court denied Chinese the right to testify in court; and in 1882, the Congress enacted the Chinese Exclusion Act, suspending the immigration of Chinese-born laborers and barring foreign-born Chinese from acquiring citizenship.

The World War I period saw a continuation of such exclusionary action. In 1917, Congress cut off immigration from designated geographic areas creating an "Asian Barred Zone," and added a literacy requirement to the immigration law. This requirement was designed to reduce immigration from eastern and southern Europe.

The Anglo Conformity Movement and the anti-German sentiment that accompanied World War I affected state laws as well. The Nebraska Act of 1921 made English the official language of that state and required all state proceedings to be printed in English. At the same time, 20 midwestern states enacted laws to bar schools from teaching German. Their state legislatures and courts felt that such laws were necessary both to support a common language and to prevent children from being confused by a second language.

While these laws gained widespread popularity, the U.S. Supreme Court found that they violated the rights of non-English-speaking people. In 1923, the U.S. Supreme Court effectively nullified restrictive state language laws in *Meyer v. Nebraska*. Justice McReynolds wrote that "The protection of the Constitution extends to all; to those who speak other languages as well as to those born with English on the tongue." In so doing, the Court barred the enforcement of English Only laws in Iowa, Nebraska, Ohio, South Dakota, and other states.

The U.S. Supreme Court has also reviewed English Only policies in the instructional setting. In *Lau v. Nichols*, the Court ruled that instruction only in English deprived the students of an understanding of the curriculum and an equal opportunity in education.

Hispanics, perhaps more than any other group, have suffered from educational neglect and have been denied

effective educational opportunities because of English language deficiencies. Congress found in 1975 that Hispanics "have been denied equal educational opportunities by state and local governments resulting in severe disabilities and continuing illiteracy in the English language. Where state and local officials conducted elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation." [Voting Rights Act of 1975, Section 4(f)1]

Educational discrimination, failure to enforce attendance rules, punishments for speaking Spanish in school, and related occurrences all beset Hispanic youth. As the Supreme Court observed in 1973, "a cultural incompatibility conjoined with the poll tax and the most restrictive voter registration procedures in the Nation have operated to effectively deny Mexican Americans access to the political process in Texas even longer than Blacks were formally denied access by the white primary." (*White v. Regester*, 1973)

Given these historical conditions, it is little wonder why the Congress in 1968 sought new ways to educate Hispanic and other language minority youngsters and enacted the Bilingual Education Act. Increasingly, educational research has pointed to native language instruction as superior to a solely English curriculum to increase the English language proficiency of students. The latest Department of Education studies and test score results in Los Angeles, San Jose, and other school districts provide supporting evidence for bilingual education.

Similarly, bilingual public services are necessary for adults, particularly senior citizens, who went to school in

decades past and are still suffering the vestiges of past educational discrimination. In addition, because the bulk of immigration is coming from Latin America, Asia, and the Pacific Islands, more people are entering the United States unfamiliar with English. The historic demands for English language training have increased while the resources devoted to this important part of education have decreased.

English Only legislation fails to address these needs. The United States generally is language-deficient and hampered in international trade, diplomacy, and strategy by not being familiar with or attuned to other languages and cultures.

As a result of the civil rights movement, the country began to shed practices that used language to discriminate against racial and ethnic minority Americans. The Voting Rights Act of 1965 removed literacy requirements and assured Blacks of the right to vote. In 1968, Congress enacted the Bilingual Education Act to enable schools to meet the educational needs of non-English-speaking children. As an outgrowth of the 1965 Voting Rights Act—which ended the literacy tests and ensured Black Americans the right to vote—Congress, in 1975, extended voting rights protection to Hispanics, American Indians and Alaska Natives, and Asian Americans.

The proposed Official English/English Only amendments to the federal and state constitutions threaten the hard-won gains of language-minority Americans to participate in democratic institutions and to obtain an equal and excellent education. Instead, the Official English/English Only movement in a very real sense is a throwback to the last century when language was used in legislation to limit the rights of some Americans and to exclude others.

The English Language Amendment: Its Provisions and Their Meaning

Five bills are pending in the 100th Congress to amend the U.S. Constitution to make English the official language of the United States. The principal Senate bill is S.J. Res. 13, sponsored by Senators Jesse Helms (R-NC), Strom Thurmond (R-SC), Steven Symms (R-ID), Thad Cochran (R-MS), and Jake Garn (R-UT). The House sponsors are Representatives Norman Shumway (R-CA), H.J. Res 83; Clarence Miller (R-OH), H.J. Res 63; William Broomfield (R-MI), H.J. Res. 13; and Virginia Smith (R-NE), H.J. Res. 60.

The bills are uniform in wanting to make English-as-the-official-language the twenty-seventh amendment to the Constitution and in leaving the implementation of the amendment to Congress. And they uniformly fail to exempt from the amendment matters related to health, safety, and access to the judicial and political systems. In other words, the amendments would prohibit states or municipal governments from requiring the use of languages other than English in order to reach large segments of their population who are not proficient in English.

The bills differ in key provisions, however. The Broomfield/Smith versions of the English Language Amendment (H.J. Res. 13 and 60) would bar federal and state govern-

ments from requiring the use of languages other than English except in the field of education when a student's native language is used in transitional programs that teach English. (They would not, however, exempt programs that teach foreign languages as academic subjects or provide for the use of native languages in school communications to students and parents.)

The bills threaten serious negative consequences based on the precedent-setting law passed in Dade County, Florida, in 1980. This Official English/English Only law, which has actually terminated bilingual services, serves as an example of what can happen in other jurisdictions. The press reported the following incidents:

- The *Orange County Register* (June 6, 1986), cited the elimination of bilingual pamphlets on neonatal care at Dade County hospitals and the suspension of plans to hang bilingual cautionary signs throughout the county's rapid transit system.

- The *New York Times* (July 21, 1986) reported that Dade County's law had to be modified in 1984 to permit public employees to deal with medical patients in languages other than English and to exempt tourist attractions from the language restrictions.

- The *San Francisco Examiner* (September 21, 1986) reported the prohibition of the use of funds in Dade County to print bus schedules, property tax notices, and zoo signs in Spanish.

Other anticipated consequences include—

1. Creating serious problems for police officers, emergency health personnel, and social workers who must commu-

nicate with all residents regardless of whether they speak English or whether they are natives, newcomers, or tourists.

2. Limiting the ability of the police to recruit and hire bilingual public contact personnel. The Broomfield-Smith version of the Official English/English Only amendment would threaten such laws as California's 911 Emergency Law which requires that bilingual operators be available to handle emergency situations in areas where 5 percent or more of the population speak a language other than English.

3. Threatening the rights of victims and witnesses to crimes to have interpreters in court. The Sixth Amendment gives a criminal defendant the right to confront his or her accusers and to know the charges. Court rulings and federal statutes provide for court interpreters for defendants who are not proficient in English. The right to an interpreter is not limited to only one language, such as Spanish. Polish speakers, Italian speakers, the hearing impaired, and those who know any other language instead of English are all entitled to a court interpreter under current law.

4. Unleashing intergroup tensions and community hostilities in cities and towns where Official English/English Only legislation has been pushed at the local level. For example, the Dade County Commissioner, who sought to repeal the Official English/English Only law, has received bomb threats against him and his family.

5. Restricting private as well as governmental activity. This has already occurred.

- *USA TODAY* (March 4, 1988) reported that Hispanics planned to picket an apartment cooperative in Hillandale, Florida, "because it requires residents to speak English."

- In 1985, Official English/English Only supporters in Monterey Park, California, petitioned the City Council to make English that city's official language. A major target of the campaign was to force the elimination of Chinese language business signs in the city, which is 40 percent Asian and 38 percent Hispanic. The campaign has also targeted Burger King and McDonald's bilingual menus in Florida.

- That same year, U.S. English announced a boycott of Philip Morris products because of that company's Spanish-language advertising, challenged the Pacific Bell telephone company for having Spanish-language services, and challenged a Florida real estate developer for advertising in a Spanish-language newspaper. Additionally, U.S. English unsuccessfully asked the Federal Communications Commission to place restrictions on the renewal of Spanish-language radio station licenses in southern Texas.

6. Eliminating business advertising to non-English speakers. In 1986, the U.S. Supreme Court ruled in *Holiday Inn v. Tourism Company of Puerto Rico* that the government may ban truthful advertising for a legal product if the government already regulates that product. While this case had nothing to do with language, it does represent a new limitation on commercial free speech. This ruling may make it more difficult to challenge governmental restrictions on advertising in other languages.

What the English Language Amendment doesn't provide is increased English language resources. Education, civil rights, and other organizations are supporting in Congress the English Proficiency Act. This act authorizes about $25 million in fiscal year 1988 for English literacy programs for limited English speakers and continued funding through 1993. This bill recognizes that tens of thousands of people want to learn English but are unable to do so because adult English classes are already overburdened. This legislation supports local school, library, community, and workplace English classes.

Say No to Official English/English Only

The English Language Amendment is the wrong remedy for whatever of America's social ills it tries to solve—for five reasons. It ignores our country's civil rights tradition; it fails to promote the integration of language minority citizens into the American mainstream; it neglects the need for American merchants to communicate with foreign markets; it restricts the government's ability to reach all citizens; and it raises Constitutional concerns.

To amend the Constitution to restrict civil rights on the basis of one's proficiency in English would be to ignore America's long struggle to advance equal educational opportunity for all and to remove artificial barriers to the equal protection of the laws.

To offer a constitutional amendment as a solution to America's language deficiencies will probably mean that language minority citizens will be further alienated from the economic, political, and social mainstream. The English Language Amendment cannot help language minority citizens because it provides no support for effective educational programs to teach people English.

To impose language restrictions on language minority Americans will hinder efforts by our business people to reach

international markets and by our diplomats to understand people of other countries. Immigrants can help all Americans become proficient in other languages and, thereby, help strengthen our country.

To tie the hands of government in the areas of public safety, criminal justice, and the political process will weaken, not strengthen our government; and to allow new governmental controls over commercial advertisements and mass communications will weaken, not strengthen the ability of the private sector to thrive.

Finally, to use the Constitution to take rights away from people, as the English Language Amendment would do, would be an inappropriate departure from tradition. Whether it was for the right to bear arms, the right to vote, the right to equal protection of the laws, or the right to jury trial, the Constitution has been amended to expand, not to contract, the rights of Americans. Since the ratification of the Bill of Rights in 1791, the nation has made only 16 changes in the Constitution. So this document has not been changed frivolously, and it should not be amended frivolously in the future with the addition of an English Language Amendment.

So say no to Official English/English Only. To do so will not mean saying no to English or undermining the importance of language proficiency. Rather, it will mean that you oppose efforts that fail to reach out to all Americans and that you support other efforts, such as the English Proficiency Act, that encourage language proficiency training.

Resources

American Civil Liberties Union
122 Maryland Avenue, N.E.
Washington, D.C. 20002

American Jewish Committee
2027 Massachusetts Avenue, N.W.
Washington, D.C. 20037

Californians United
Box 150
1746-B Post Street
San Francisco, California 94115

Center for Applied Linguistics
1118 22nd Street, N.W.
Washington, D.C. 20037

Cuban American National Council
300 S.W. Twelfth Avenue
Miami, Florida 33130

English Plus Information Clearinghouse
227 Massachusetts Avenue, N.E.
Washington, D.C. 20003

Japanese American Citizens League
1765 Sutter
San Francisco, California 94115

League of United Latin American Citizens
400 First Street, N.W., #721
Washington, D.C. 20001

Mexican American Legal Defense and Education Fund (MALDEF)
1430 K Street, N.W., #700
Washington, D.C. 20005

National Association for Bilingual Education
1201 16th Street, N.W.
Washington, D.C. 20036

National Council of La Raza
20 F Street, N.W.
Washington, D.C. 20001

National Democratic Council of Asian and Pacific Americans
1050 Thomas Jefferson Street, N.W.
6th Floor
Washington, D.C. 20007

National Immigration, Refugee, and Citizenship Forum
227 Massachusetts Avenue, N.E.
Washington, D.C. 20003

National Puerto Rican Coalition, Inc.
1700 K Street, N.W.
Suite 500
Washington, D.C. 20005

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